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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/670,353	09/26/2003	Joseph L. Molino	F0239	5275

48745 7590 07/13/2006

SILBER & FRIDMAN
1037 ROUTE 46 EAST
SUITE 207
CLIFTON, NJ 07013

EXAMINER

WILLSE, DAVID H

ART UNIT	PAPER NUMBER
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3738

DATE MAILED: 07/13/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

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Office Action Summary	Application No. 10/670,353	Applicant(s) MOLINO ET AL.	
	Examiner Dave Willse	Art Unit 3738	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 13 April 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-27 is/are pending in the application.
- 4a) Of the above claim(s) 9 and 12-27 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-8, 10 and 11 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on September 26, 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>February 11, 2004</u> . | 6) <input type="checkbox"/> Other: _____ |

Art Unit: 3738

Claims 9 and 12-27 are withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected species or group, there being no allowable generic or linking claim. Applicant timely traversed the restriction (election) requirement in the reply filed on April 13, 2006. Although the Applicant includes claim 9 in the list of claims readable on elected species I, there is no explanation as to how said species includes the anterior mounting unit as claimed; the further limitations of claim 9 appear to be directed to element **180** in Figure 25.

The disclosure is objected to because of the following informalities: On page 18, line 1, the comma should be deleted; on line 2, “increase” should apparently be replaced by --increased-; on line 12, “ligamental” is misspelled. On page 20, the sentence on lines 3-4 lacks proper syntax. On page 27, the sentence on lines 6-10 lacks proper syntax. On page 28, line 7, “as” should read --an--. On page 29, line 3, the “hydraulic piston **234**” is not indicated in the drawings; on line 13, “**240**” should evidently be replaced by --**250**--. On page 30, line 4, “damping” should be replaced by --damp the--. On page 31, line 14, “plantar” is misspelled. On page 32, line 4, “servo” is misspelled; on line 5, “**45**” should be replaced by --**134**--. In Figure 16C, the reference character “90” appears twice. Appropriate correction is required.

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-8, 10, and 11 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Bell et al., GB 2 089 216 A, which discloses a base unit **2** (page 2, lines 20-23 and 56), a

Art Unit: 3738

platform comprising baseplate **20** (page 1, lines 102-104), and an adjustment device **22-25** and **30-32 and/or 8** and **34-39** (page 2, lines 77-90). Regarding claim 2, the support bar corresponds to the lock pawl **8**. Regarding claim 3, the support element is viewed as the upper portion of shin unit **2**, said portion including shinstop **34** (Figure 1); the support bar **8** is capable of receiving resilient member **10**, for example. Regarding claims 4 and 5, the position of the support bar **8** relative to the support element **34** is adjusted by means of threadable members **37** and **38** *capable* of engaging the support bar **8**. Regarding claim 6, threading the lock stop screw **37** further inwardly (after loosening the security screw **38**) lowers the position of the support bar **8** and thus moves the anterior part of the platform (including baseplate **20**) downwardly (against the resilient resistance offered by the rubber extension bumpers **6**). Regarding claim 7, the platform is viewed as further comprising the knee unit **1**, with the flat table comprising baseplate **20** and other upper elements; the knee unit **1** having spaced apart side plates would have been inherent from the ball races **4** being spaced apart by the spacer **5** (page 2, lines 55-59) and from the need to accommodate the piston rod of the damper **13**.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dave Willse whose telephone number is 571-272-4762. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Corrine McDermott, can be reached on 571-272-4754. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.



Dave Willse
Primary Examiner
Art Unit 3738